

Route and Site Selection Division

Procedural Document for Processing
Secondary Uses of Ontario Hydro Property
- Exemption Order OH-27
File #00541.061, March 30, 1983
Revision 1, December 16, 1983

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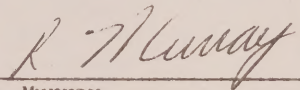
**The Ontario Ministry
of The Environment**

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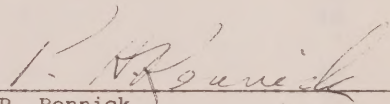
This document is submitted pursuant to Condition 3.0 and Condition 4.0
of Exemption Order OH-27.

Submitted by:


R. Murray

Director, Route & Site Selection Division
Ontario Hydro

Approved by:



P. Rennick

Director, Environmental Assessment Branch
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1.0

INTRODUCTION

The primary use of Ontario Hydro owned property is directly or indirectly for the generation, transmission or distribution of power and for the production, sale, supply and delivery of heat energy. All other uses by parties other than Ontario Hydro are considered to be secondary uses. Ontario Hydro has a secondary use policy which permits the granting of leases, licences or easements to others for use of Corporation property.

Ontario Hydro is committed to assess the impact of proposed secondary uses on the environment to fulfill the spirit and purpose of the Environmental Assessment Act. This document outlines the procedures and criteria by which Ontario Hydro proposes to determine the environmental effects and acceptability of all secondary uses of its property. Pursuant to condition 3 of Exemption Order OH-27, this document has been developed by Ontario Hydro in consultation with the Ministry of Environment (MOE) and will be filed in the Public Record. The Exemption Order, a copy of which is provided as an appendix, recognizes Ontario Hydro's responsibility for sound environmental management of its property.

2.0

GOVERNING POLICY AND PRINCIPLES

Ontario Hydro's corporate goal is as follows:

"To meet the requirements of the Ontario community for electric service, including the manner of its provision, so as to result in the greatest overall benefit to that community and in the lowest cost (customer's average unit energy cost) to the customer for that service over the long term."

Further to this goal Ontario Hydro has a corporate objective, with respect to the environment, which states that Ontario Hydro will seek:

"To have as little adverse impact as practical as a result of any of its activities upon the natural environment, upon the social and economic structure of Ontario and its local communities, and upon the property owned by, and the services available to, the citizens and organizations of Ontario and to provide offsetting beneficial impacts or compensation insofar as practical."

Also, the following principles underlie the development of the procedures outlined in this document:

- Ontario Hydro shall reject any secondary use of its property that is not technically compatible with existing or planned facilities.
- No secondary use of Ontario Hydro property shall result in unacceptable environmental effects. (Examples are: the introduction of harmful contaminants into the air, water or land in excess of MOE

guidelines, the willful destruction of a site of historical or archeological significance, and the presence of material that is deleterious to human health or well-being.)

- . Ontario Hydro shall fulfill its public obligation to maintaining acceptable environmental standards and security on its property. This will be accomplished through the use of Ontario Hydro's internal expertise, and by consulting with professionals in related fields where necessary.
- . Ontario Hydro shall give due consideration and respect to the public affected by secondary uses on Ontario Hydro property, and shall take reasonable measures to resolve any problems or conflicts with the public through negotiation, modification of the proposed use, and the involvement of government or municipal agencies as appropriate.

3.0 APPLICATION OF PROCEDURES

This document is designed to apply to the disposition of all Ontario Hydro property for the purpose of secondary uses.

If the disposition of the Ontario Hydro land is to a party (applicant) subject to the EA Act without an approval or exemption, the disposition cannot be carried out.

If an exemption order or an approval (for Ontario Hydro or others) under the EA Act pertains to the specific Hydro property for which a specific secondary use(s) has been proposed, and the approval or order either permits or prohibits the specific secondary use(s), then the terms of OH-27 do not apply (unless they are specified by the other approval or order); the provisions of the approval or conditions of the exemption order apply.

If an exemption order or approval (for Ontario Hydro or others) applies and does not specify a particular use(s) of a particular piece of land, then both the terms of OH-27 and the other approval or exemption order must be complied with.

Where the terms of another approval or order and the terms of OH-27 both apply, and would result in a duplication of procedures, then a satisfactory arrangement for division of responsibilities will be worked out between Ontario Hydro and the applicant. If conflicts or apparent conflicts arise between the two sets of procedures, then the Environmental Assessment Branch will be consulted for resolution.

4.0 AMENDMENTS TO THIS DOCUMENT

A review of this document can be requested by the Ministry of Environment or Ontario Hydro and any amendments to the document will be agreed upon through consultation. Any changes or revisions to this document to reflect any changes in application of OH-27 or any special provisions

which must be complied with will be made with the approval of the Director of the Environmental Assessment Branch.

The Director of the Environmental Assessment Branch has approved the rewriting of the first paragraph under Section 3.0 because information from Ontario Hydro indicated that the procedure outlined in this document appeared to be reasonable for all types of disposition of Ontario Hydro lands for secondary uses. Under this Section, the Director of the Environmental Assessment Branch will, from time to time, review the scope of the application of this document based on future experience, and consider further amendments to the first paragraph of Section 3.0, depending on such experience.

5.0 PROCESSING APPLICATIONS FOR
SECONDARY USES OF ONTARIO HYDRO PROPERTY

The process which Ontario Hydro proposes to follow to determine the environmental effects and acceptability of all secondary uses of its property is outlined in the flow chart shown on Figure 1. The flow chart indicates the various stages an application for secondary use of Ontario Hydro property passes through from application received to implementation. These seven basic stages are:

- Stage I - Assessment of Technical Compatibility
- Stage II - Assessment of Environmental Effects
- Stage III - Notification and Consultation
- Stage IV - Resolution of Concerns
- Stage V - Environmental Status Statement
- Stage VI - Disposition
- Stage VII - Implementation, Operation and Monitoring

The amount of work required at each stage will depend on the location and nature of the proposed secondary use and its effects.

The following provides more detail on what procedures and criteria are involved in the various stages:

5.1 Stage I - Assessment of Technical Compatibility

5.1.1 Receipt of Application

Ontario Hydro receives many applications each year for secondary uses of its property. Such uses may require a few square meters of transmission line right-of-way for a garden plot as an extension of a backyard of an adjacent residence or the use of several kilometers of transmission line corridor for a pipeline. In addition to these requests for new uses of Ontario Hydro property, a great number of existing leases, licences and easements must be re-examined before they are approved for renewal.

Applications are submitted to the appropriate Ontario Hydro property office for circulation to interested Divisions of Ontario Hydro.

5.1.2 Compatibility with Existing or Proposed Facilities

All applications are reviewed to determine whether the proposed secondary use will interfere with the safe operation and maintenance of existing or future facilities or with existing secondary uses.

The following are examples of technical factors that will be considered:

- security (clearance, grounding or protection)
- maintenance (accessibility, clearance)
- public safety (clearance, grounding)

If a proposed secondary use is unacceptable (incompatible) for any technical reasons, the application will be rejected and the applicant advised of the reason(s).

If a proposed secondary use is found to be compatible with existing or future Ontario Hydro facilities, it will proceed to be assessed in terms of its possible environmental effects (Stage II).

If a proposed secondary use would conflict with proposed future Ontario Hydro facilities, an appropriate short term lease or license may be considered by Ontario Hydro, and suggested to the applicant. If the shorter term is acceptable to the applicant, the revised application will proceed to the next stage (Stage II).

5.2 Stage II - Assessment of Environmental Effects

5.2.1 Renewals

All secondary use applications are checked to determine whether they are renewals of existing secondary uses. Relevant information is kept for purposes of this procedural document on every existing secondary use and is available to the public. Requests for this information must be reasonable and made in writing. Concerns about existing secondary uses can be raised and lodged with Ontario Hydro by the public, government ministries or other agencies.

- If no concerns have been registered, Ontario Hydro will proceed with the renewal of the agreement for the secondary use (i.e., Stage VI - Disposition).
- If concerns have been registered, the secondary use application will proceed to the next step in the process where environmental effects are assessed.

5.2.2 Preliminary Assessment of Environmental Effects

If an applicant is subject to the EA Act and has an approval or exemption order (which does not specifically address the secondary use), then Ontario Hydro will ensure its interests and facilities are adequately protected by supporting information and the terms of the approval or exemption order. If so, no further study is required and the secondary

use application can proceed to Stage VI - Disposition. If not, Ontario Hydro can request the applicant to undertake further study or any other activities to satisfy Ontario Hydro's concern as outlined in this procedural document.

If an applicant is not subject to the EA Act, a preliminary assessment of the environmental effects of the proposed secondary use will be done at this stage in order to provide a basis for classifying the secondary use as minor, moderate or major (see Section 5.2.3). Environment is defined broadly to include atmospheric, aquatic, terrestrial and community (socio-economic-cultural) effects.

As appropriate, this preliminary assessment of environmental effects will involve discussions with any government ministries, agencies or any others who might be able to provide relevant information. Ontario Hydro will contact the Niagara Escarpment Commission whenever a proposed secondary use could have any potential effects on the area of the Niagara Escarpment Plan. Ontario Hydro appreciates the contribution these interests can provide to a reasonable determination of the environmental significance of a proposed secondary use. This information will assist Ontario Hydro in its determination of whether a proposed secondary use requires further study or whether it will have environmental effects which warrant its rejection, an individual Environmental Assessment (EA) or revisions.

The appropriate office, i.e., branch or region, of the various Ministries and agencies will be contacted to provide information on the following environmental components:

(Abbreviations used: MOE - Ministry of the Environment; MNR - Ministry of Natural Resources; OMAF - Ontario Ministry of Agriculture and Food; MCC - Ministry of Citizenship and Culture; MTC - Ministry of Transportation and Communications; MMAH - Ministry of Municipal Affairs and Housing; MTR - Ministry of Tourism and Recreation.)

ENVIRONMENTAL COMPONENT	MINISTRY/AGENCY INFORMATION SOURCE
(a) Atmospheric Effects	
- air quality	(MOE)
- micro-climate	(MOE)
- noise	(MOE)
(b) Aquatic Effects	
- water quality	(MOE, MNR, Conservation Authority(s))
- fisheries and aquatic life	(" " " ")
- aquatic habitat	(" " " ")
- hydrology and drainage	(" " " ")

(c) Terrestrial

- terrain alteration (MNR)
- soil and groundwater contamination (MOE, OMAF, MNR)
- vegetation and wildlife (MNR)
- wildlife habitat (MNR)

(d) Community

- aesthetics (Municipality, MMAH)
- population (Municipality, MMAH)
- employment and economics (Municipality, MMAH)
- community services and infrastructure (Municipality, MMAH)
- emergency access (Municipality, Solicitor General)
- land use (Municipality and MMAH)
- culture, lifestyle (MCC)
- historical and archaeological resources (MCC)
- tourism and recreation (MTR, Municipality)
- fishing, hunting and other resources uses (MNR)
- noise, dust and vibration disturbances (MOE)
- transportation (MTC, Municipality)

(e) Environmental Cost

- cost of restoring the property to an acceptable condition

5.2.3 Classification of Secondary Use Applications

After a preliminary assessment of the environmental effects has been done, the proposed secondary use will be classified as Major, Moderate, or Minor. This is done according to the degree of potentially serious environmental effects it will have and thus the degree of study of these effects which is expected to be required. The classification of a "Moderate" secondary use is a preliminary one since it can be re-designated or "bumped-up" to "Major" at Stage IV - Resolution of Concerns. The parameters of these classifications are as follows:

- 5.2.3.1 Major: The environment is permanently and significantly altered from the condition existing prior to the secondary use and its impacts will be detrimental to the affected environment. Even special mitigation and restoration will not appreciably reduce the negative impact predicted.

Action: Hydro will advise the applicant of these predicted major environmental effects and review various options with the applicant. The options are:

- withdraw application
- revise and re-submit
- prepare an environmental assessment for the proposed secondary use for full review under the EA Act

5.2.3.2 Moderate: The secondary use is predicted to have significant negative environmental impacts which can be moderated and made acceptable by special mitigation and/or restorative measures or by design changes. These are examples of environmental effects that would normally be considered moderate:

- disturbance to known cultural, historical or archaeological sites
- long-term elevated noise levels
- adversely affects drainage
- adverse social impact, i.e. where the secondary use clearly alters the character of the property to the detriment of adjacent owners
- affects a designated Environmental Sensitive Area (ESA)
- requires a change to an environmental commitment by Ontario Hydro to Federal, Provincial, regional or local government

The following examples are usually considered moderate, but may in some cases prove to be minor:

- Parking lot in residential area
- Pipelines along rights-of-way
- Retention ponds in urban areas

Action: Secondary use applications with moderate environmental effects will require further review as shown in the flow chart, Stages III to VII.

5.2.3.3 Minor: Environmental changes predicted will be minimal and require little or no special mitigation or restoration nor any further study because they are known and contained.

The following examples are normally considered to have minor environmental effects:

- garden plots as extensions of backyards of adjacent residences
- bus loop in industrial area
- drainage ditch crossing Hydro rights-of-way
- recreation/sports fields
- golf courses
- agricultural land

Action: No further study is required for the proposed secondary use and the application can proceed to Stage VI - disposition.

5.3 Stage III - Notification and Consultation

5.3.1 General Public

- (a) Ontario Hydro will ensure that appropriate notification of a proposed secondary use is provided to those affected by that use. Normally, those contacted will be the directly affected adjacent property owners, local elected and appointed officials, known local interest groups and concerned Provincial Ministries, i.e., those with jurisdictional interest.

The public will be notified in the following ways:

- If zoning changes are required, the Planning Act provides for notification of adjacent landowners by the Ontario Municipal Board's "Rules of Procedure" which stipulate that landowners located within 120 metres of the land affected by the proposal must be notified.
 - If public involvement is not required through the municipal planning process (i.e., no zoning change), notification of the public is required if social impacts are perceived to be negative from such things as noise, visual impact, and loss of privacy.
- (b) Notification will be carried out by either the applicant or Ontario Hydro. In some cases, the applicant may have notified adjacent land owners before submitting the application to Ontario Hydro and therefore no further notification is required.
- (c) Ontario Hydro will ensure that an appropriate method of notification is used. Notification may be carried out by letter, pamphlet, newspaper notice or other suitable means.
- (d) Notification will consist of a description of the proposed secondary use, its proposed location, where further information may be obtained and the date by which concerns must be registered.

- (e) The notification will allow a minimum of 15 days for identification of concerns. Concerns can be registered by phone but must be confirmed in writing within 15 days of the phone call.

5.3.2 Government Ministries and Agencies

At this stage, Ontario Hydro will again contact and seek information and co-operation from the same government ministries or agencies consulted in the Preliminary Assessment Stage. Individuals and groups who can provide relevant information on environmental effects will also be consulted. This is to identify concerns about environmental effects of the application that any of these ministries, agencies or individuals may have, and to identify possible mitigation or restoration measures, or design changes.

5.4 Stage IV - Resolution of Concerns

Concerns may be registered by members of the public, government ministries, other agencies or Ontario Hydro itself. The procedure Ontario Hydro intends to follow to seek a resolution of such concerns is as follows.

5.4.1 Resolution

Ontario Hydro will discuss the identified concern(s) with the applicant and the party raising the concern(s). Possible mitigation measures will be examined. This can be a reiterative process with successive modifications made to the suggested mitigation or resolution measures proposed. When all concerns are resolved to the satisfaction or agreement of the parties, Ontario Hydro will proceed to prepare and file an Environmental Status Statement (ESS) on the matter (see Section 5.5).

5.4.2 Further Consultation and Dismissal

If concerns cannot be resolved in the above manner, Ontario Hydro will discuss the matter with the applicant and the appropriate branch or section or region of MOE. General environmental assessment matters would be referred to the Environmental Assessment Branch; matters involving certificates of approval would go to the Environmental Approvals and Project Engineering Branch; matters regarding pipelines are the responsibility of the Land Use Co-ordination Section of the Environmental Approvals and Project Engineering Branch and local matters would be referred to the appropriate regional office of MOE.

Following such consultation and taking into account such advice, Ontario Hydro will determine whether:

- The concerns are insignificant or frivolous, in which case Ontario Hydro will proceed to Stage V for the preparation and filing of an ESS, and Stage VI the development of an agreement for disposition;

or

- The concerns are serious and legitimate, in which case Ontario Hydro will review the following options with the applicant:
 - (a) Submit the application for full review and approval under the EA Act (prepare an EA) - In this case, Ontario Hydro will advise MOE that in Ontario Hydro's judgment the application merits an individual EA. If the applicant is from the private sector, MOE must decide whether or not to designate the proposed secondary use as being subject to the EA Act and requiring an individual EA. If MOE does not designate the application as requiring an EA, the terms of OH-27 will nevertheless apply. The applicant will be requested to withdraw or revise and re-submit the application.
 - (b) Withdraw the application - If the concerns are serious, Ontario Hydro may strongly urge the applicant to withdraw the application. Failing this, Ontario Hydro may reject the application.
 - (c) Revise and re-submit the application in accordance with Ontario Hydro's interest and concerns - Depending on the extent of the revision required, it can re-enter the process at various appropriate points. An application with large scale revisions would return to Stage I and one with small scale revisions to Stage III (see Figure 1).

5.5 Stage V - Environmental Status Statement (ESS)

5.5.1 Contents

An ESS will be prepared for every secondary use classified as moderate (i.e. expected to have moderate environmental effects). The ESS will vary according to the scope of the proposed secondary use and will include the following information:

- Description of the proposed secondary use, including its operation, physical characteristics, expected duration (including map and/or figures as necessary).
- Environmental effects - identification and analysis of main impacts; special mitigation and restoration required; identification of any public issues or concerns that were raised and how these were resolved.
- Monitoring - description of any special monitoring that was considered appropriate to discover unforeseen effects or effects over time or usefulness of mitigation measures.

5.5.2 Filing

An ESS will be filed with MOE for placement in the Public Record. If an applicant has already prepared an environmental assessment or an environmental report, parts or all of it, as found acceptable by Ontario Hydro, will be filed in place of the ESS normally required on the Public Record along with any additional information on special mitigation, restoration or monitoring specifically required by Ontario Hydro. The filing of the ESS completes the study phase and disposition can commence subject to any special mitigation or monitoring agreements.

5.6 Stage VI - Disposition

For all secondary use applications where an ESS is filed with MOE, Hydro will advise the applicant of any mitigation or restoration measures required before the appropriate disposition agreement document is signed. When a satisfactory agreement is signed, the applicant may proceed with implementing the secondary use.

5.7 Stage VII - Implementation, Operation and Monitoring

5.7.1 Notification of Implementation

If there was public notification in Stage III, then further notification of the start of the implementation may be required. The affected adjacent landowners and appropriate public, agencies and ministries may be notified prior to and during implementation of the secondary use.

5.7.2 Information Assembly and Filing

Ontario Hydro staff will inspect and monitor the implementation and operation of secondary uses, particularly when specific mitigation measures are identified or if uncertainties in environmental effects are noted in the ESS. Information gathered as a result of these activities as provided for in the ESS will be filed as additional information in the Public Record of MOE if required by the ESS.

If a secondary user during implementation or operation purposely or neglectfully omits totally or partially the mitigation or restoration measures specified in the ESS, Ontario Hydro will take steps appropriate to enforce its rights under its agreement.

All concerns raised or identified during the implementation and operation stage will be discussed with the party raising the concerns and the secondary user. After this discussion, Ontario Hydro will recommend a satisfactory resolution which may require design changes or special mitigation. If provided for in the terms and conditions of the agreement, Ontario Hydro can insist that the secondary user make design changes or perform special mitigation.

This concern and the resulting resolution will be placed in the secondary user's file and reviewed when the agreement needs renewal as discussed in Section 5.2.1 - Renewals.

APPENDIX

Copy of Exemption Order OH-27

ORDER MADE UNDER THE
ENVIRONMENTAL ASSESSMENT ACT

Exemption - Ontario Hydro

Having been advised that Exemption Order OH-23/2, which was published as O. Reg. 875/81, is expiring and that an undertaking of Ontario Hydro, namely:

The activity of Ontario Hydro granting leases, licences, easements or similar rights to others for the use of Ontario Hydro owned property

should be exempt from the application of the Act pursuant to section 29; and

Having been advised by the proponent that if the undertaking is subject to the application of the Act, the following injury, damage or interference with the persons and property indicated will occur:

- A. Individuals wishing to obtain a lease, licence or easement on Ontario Hydro lands will be interfered with by the delay;
- B. Ontario Hydro will be interfered with and damaged by the delay and expense required to prepare an individual environmental assessment which could render the proposed secondary use uneconomical.

Having weighed such injury, damage, or interference against the betterment of the people of the whole or any part of Ontario by the protection, conservation and wise management in Ontario of the environment which would result from the undertaking being subject to the application of the Act;

The undersigned is of the opinion that it is in the public interest to order and orders that the undertaking is exempt from the application of the Act for the following reasons:

- A. Ontario Hydro has satisfactorily complied with the conditions of Exemption Order OH-23/2 by consulting with the Ministry of the Environment and preparing and submitting Environmental Study Reports on secondary use applications which cause environmental effects that can be satisfactorily dealt with by either design changes, mitigation or restoration.
- B. Ontario Hydro has further fulfilled the terms of Exemption Order OH-23/2 by providing notice to and considering the concerns of the public and government ministries which may be affected by the proposed secondary use prior to the granting of a lease, licence or easement to another for the use of Ontario Hydro property.
- C. During the period of Exemption Order OH-23/2, Ontario Hydro has demonstrated through documented case examples that the nature of the environmental effects of secondary uses does not warrant the application of the Act beyond the terms set out in this order.
- D. The betterment of the people of the whole or any part of Ontario by the protection, conservation and wise management in Ontario of the environment will be sufficiently fulfilled by the terms and conditions of this order and by procedures and regulations to date regarding the application of the Environmental Assessment Act to public sector undertakings which involve secondary uses.

This exemption is subject to the following terms and conditions:

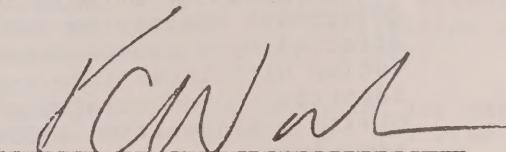
- 1. Subject to condition 2, this order does not apply to disposition activities that are for undertakings of persons other than Ontario Hydro for which an environmental assessment is required.

2. Where a disposition is being carried out in connection with, or as part of, an undertaking for which an environmental assessment is required and an approval is issued, or for which an exemption order is issued, the disposition shall be carried out in accordance with both
 - (a) the approval or the conditions of the exemption order; and,
 - (b) the subsequent conditions of this order.
3. A procedural document governing the implementation of this order will be developed by Ontario Hydro in consultation with the Ministry of the Environment and filed in the Public Record. If the document is not approved by April 30, 1983 by the Director of the Environmental Assessment Branch, this order becomes inoperative. This procedural document shall provide for:
 - (a) notification by Ontario Hydro of the public, government ministries and other agencies affected by a proposed secondary use and consultation with these interests as required for identifying and resolving concerns, prior to giving a disposition allowing the proposed secondary use;
 - (b) identification and evaluation of environmental effects that require special measures such as design changes, mitigation or restoration, documentation of these in an environmental study report to be filed in the Public Record, and implementation of such measures;
 - (c) determination of those secondary uses that require a full environmental assessment in which cases this exemption will not apply.

Until the procedural document required under this condition is finalized, the matters specified above shall be carried out according to the discretion and current procedures of Ontario Hydro; after the document is finalized, they shall be carried out in accordance with the document. With the approval of the Director of the Environmental Assessment Branch, the document may be amended from time to time.

4. This order shall apply to the disposition of all Ontario Hydro properties for twelve months after it is issued. At that time, based on experience during the twelve month period and any further information Ontario Hydro provides, the exemption under this order will be reviewed to determine whether it should continue to apply to all Ontario Hydro property. In the event that it is determined that the application of the order should continue, those properties in addition to transmission line rights-of-way to which the order will apply after the twelve month period and any additional provisions which must be complied with will be specified in amendments to the procedural document referred to in condition 3. Unless such amendments to the procedural document are made, this order shall apply only with respect to transmission line rights-of-way after the twelve month period expires.

Dated this _____ day of _____, 1982.



Minister of the Environment

Approved by O.C. No. _____ /82.

O. Reg. No. _____ /82.

Filed with the Registrar of Regulations, _____, 1982.

Ontario Gazette _____, 1982.



